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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WEINSTEIN, LEONARD J

ART UNIT

PAPER NUMBER

3746

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,001	Applicant(s) LEIBBRAND ET AL.	
	Examiner LEONARD J. WEINSTEIN	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 and 39 is/are allowed.
- 6) ☒ Claim(s) 13, 15-38, 40-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment of June 9, 2009. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendments to claims 1-3, 11, 13, 15, 17-20, and 28-45 and notes that claim 46 has been canceled.
3. The examiner notes that the general subject matter which was indicated as allowable in the office action of April 13, 2009 is not in question but after further consideration it has been determined that several issues exist related to form and clarity of the instant claims. The following action includes the reasons for rejection of certain claims under 35 U.S.C. 112 second paragraph and suggested amendments which will put the instant application in condition for allowance.

Specification

4. The disclosure is objected to because of the following informalities:
 - a. The disclosure in ¶0021, on page 9 of the instant disclosure recites "[d]epending upon the type of pump, pump power, manner and size of support device, various drive subassembly 42 and therewith various carrier frames 48 are needed." Application 10/530001, ¶0022, pg. 9, (March 31, 2005). The language used is cumbersome and ambiguous and does not clearly define whether there are multiple drive subassemblies, each having a separate carrier frame, that can be used at the same time or the type and size of single drive assembly and carrier respectively can be mounted on to a truck if required. The remainder of

the specification refers to a drive subassembly as singular unit and it is shown in figure 1 as being a single component. The examiner suggests amending the specification to recite:

--- Depending upon the type of pump, pump power, manner and size of support device, various types of drive subassemblies 42 could be needed. In addition, carrier frames 48 may be in various sizes to accommodate the type of drive subassembly 42 is used. ---

- b. The response of June 9, 2009 included an amendment to ¶0030 on page 13 of the original disclosure of the instant application 10/530001 filed March 31, 2005, corresponding to ¶0051 of the published version of the instant application. The amendment included the recitation of "At least the core pump can" This should be amended to recite --- At least the core pump 24 can ---.
- Appropriate correction is required.

Claim Objections

5. Claim 1 is objected to because of the following informalities: the recitation of "drive assembly" should be --- drive subassembly --- to be commensurate in scope with the instant disclosure and provide antecedent basis for dependent claims 15-18, which recite "drive subassembly." Appropriate correction is required.
6. Claims 2, 3, 5, 8-10, 29-31, 42, and 43 have various grammatical errors and inconsistencies. Below in the Examiner's Amendment section, the examiner has presented the errors and corrections which put the claims in condition for allowance.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 13, 15-18, claims 19-27 as depend upon claim 18, claim 28, and claims 29-38 and 40-45 as dependent upon claim 28, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claims 13 and 15-18 each recite some form of the limitation “drive subassemblies” which renders the claims vague and indefinite and not commensurate in scope with the disclosure of the instant application. The instant disclosure provides support for a single drive subassembly which may be of more than one type, mounted in a free space, and connected to one or multiple functional units. The limitations as claimed suggest that more than one drive subassembly can be mounted in a free space at the same time.

10. Claims 13 and 15-18 recites the limitation "drive subassemblies." There is insufficient antecedent basis for this limitation in the claim.

11. Claim 28 recites the limitation "side members" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 42 recites the limitation "its water box" in line 2. There is insufficient antecedent basis for this limitation in the claim.

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13. Claim 44 recites the limitation "the materials supply container" in line 3. There is insufficient antecedent basis for this limitation in the claim. This limitation was not introduced in a claim from which claim 44 depends.

EXAMINER'S AMENDMENT

14. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. The application has been amended as follows:

a. **Claim 1**

i. "with material supply container (32), and functional units which form a distribution mast" amended to:

— --- with a material supply container (32) and a plurality of functional units which from a distribution mast ---

ii. "wherein a drive assembly (42) for actuating the functional units as well s the core pump (24), are located in the free space" amended to:

— --- wherein a drive subassembly (42) for actuating the plurality of functional units ~~as well as~~ and the core pump (24), ~~are is~~ located in the free space ---

iii. "core pump is prefabricated in modular manner, and the material supply container (32) which is rigidly connected" amended to:

- --- wherein the core pump (24) is prefabricated in modular manner, and the material supply container (32) ~~which~~ is rigidly connected ---

b. **Claim 2**

i. " wherein the prefabricated core pump (22) can be" amended to:

- --- wherein the ~~prefabricated~~ core pump (22) (24) is prefabricated and can be ---

ii. " with the bearings (54, 56)" amended to:

- --- with the bearings (54, 56) floating bearing (54) and the fixed bearing (56) ---

c. **Claim 3** (as listed currently - limitations stricken by applicant included)

i. "the building frame ~~sub-frame~~ frame (22) includes slide rails leading to the bearings" amended to:

- --- the building frame ~~sub-frame~~ frame includes slide rails leading to the bearings floating bearing (54) and the fixed bearing (56) ---

d. **Claim 4**

i. "the floating bearing (24)" amended to:

- --- the floating bearing (24) (54) ---

e. **Claim 8**

i. "a hydraulically driven piston pump, resting with its water box (28) upon" amended to:

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- --- a hydraulically driven piston pump having a water box (28),
and resting with its water box (28) upon ---

f. **Claim 10**

i. "the longitudinal side members (50)." amended to:

- --- the longitudinal side members (50). ---

15. The following amendments claims 13, 15-18, 28-32, 42, and 44 would obviate the rejections of claims 13, 15-18, claims 19-27 as depend upon claim 18, claim 28, and claims 29-38 and 40-45 as dependent upon claim 28, under 35 U.S.C. 112, second paragraph.

a. **Claim 13**

i. "equippable with various drive subassemblies" amended to:

- --- equippable with more than one type of a drive subassembly -
--

b. **Claim 15**

i. "wherein hydraulic and/or electric control and circuit elements for the drive subassemblies and for the functional units connected thereto are assembled in to a control module (94) provided" amended to:

- --- wherein a plurality of hydraulic and/or electric control and circuit elements for the drive ~~subassemblies~~ subassembly and ~~for the plurality of~~ functional units connected ~~thereto~~ the drive subassembly are assembled into a control module (94) that is provided ---

c. **Claim 16**

i. "the control module (94) includes assembled hydraulic valves and/or a hydraulic reservoir (97) assembled into a hydraulic controlled block (94) as" amended to:

- --- the control module (94) includes a plurality of assembled hydraulic valves and/or a hydraulic reservoir (97) assembled into a hydraulic controlled block ~~(94)~~ (96) as ---

d. **Claim 17**

i. "wherein the hydraulic lines leading from the control module (94) to the drive subassemblies (42)" amended to:

- --- wherein the a plurality hydraulic lines associated with the plurality of hydraulic and electric control and circuit elements leading from the control module (94) to the drive ~~subassemblies~~ subassembly (42) ---

e. **Claim 18**

i. "for the drive subassemblies (42)" amended to:

- --- for the drive ~~subassemblies~~ subassembly (42) ---

f. **Claim 28** (as listed currently - limitations stricken by applicant included)

i. "to which side members respectively at least two journal bearings (58) are provided, spaced apart from each other" amended to:

- --- ~~to which~~ wherein each longitudinal side members (50)
~~respectively at~~ is provided with at least two journal bearings (58)
~~are provided, that are~~ spaced apart from each other ---
- ii. “wherein on the free space (52) facing inner surface (60) of the longitudinal side members (50) respectively one mounting rail (62) is rigidly provided extending in the longitudinal direction, and wherein ~~that~~ the journal bearing (58) respectively carries a base plate (66), with which it is releasably securable to the mounting rails (62)” amended to:
- --- wherein one mounting rail (62) is rigidly provided extending in the longitudinal direction on the free space (52) facing an inner surface (60) of each of the longitudinal side members (50) ~~respectively one mounting rail (62) is rigidly provided extending in the longitudinal direction, and~~ wherein that each the journal bearing (58) ~~respectively~~ carries a base plate (66), ~~with which it~~ that is releasably securable to the mounting rails (62) ---
- g. **Claim 29** (as listed currently - limitations stricken by applicant included)
- i. “and wherein ~~that~~ the base plates (66) include” amended to:
- --- and wherein that each base plates (66) of each journal bearing (58) includes ---
- h. **Claim 30** (as listed currently - limitations stricken by applicant included)
- i. “and wherein ~~that~~ the base plates (66) exhibit on their broad side opposite to the journal bearing (58) an edge open profile recess (72)

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complimentary to the square cross section, with which they are form-fittingly seatable" amended to:

- --- and wherein that each base plates (66) ~~exhibit on~~ comprises a their broad side that is opposite to ~~the~~ a respective journal bearing (58) which has an edge open profile recess (72) complimentary to ~~the~~ a square cross section of a respective base plate (66), each edge open profile recess (72) allows a respective base plate (66) to be ~~with which they are~~ form-fittingly seatable" ---

i. **Claim 31**

i. "wherein the journal bearings (58), are located eccentric with regard to the profile recess (72), and are provided central in the longitudinal direction on the base plate (66)" amended to:

- --- wherein ~~the~~ each journal bearings (58), ~~are~~ is located eccentric with regard to the profile recess (72), and ~~are~~ provided centrally in the longitudinal direction on ~~the~~ a respective base plate (66) ---

j. **Claim 32**

i. "the through hole (68) is centrally located with regard to the profile recess (72) and eccentric in the longitudinal direction, spaced apart from the journal bearing, on the base plate (66)" amended to:

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- --- "the each through hole (68) is centrally located with regard to the a respective profile recess (72) of a respective base plate (66) and eccentric in the longitudinal direction, and spaced apart from a respective journal bearing, on the respective base plate (66) ---

k. **Claim 34**

i. "wherein the journal bearing (58) includes a flange (74) and a rearwards facing plug pin (76), and is inserted with the plug pin (76) until abutment of the flange (74) in the bore hole (78) of the base plate (166), and there is welded to the base plate" amended to:

- --- wherein the each journal bearing (58) includes a flange (74) and a rearwards facing plug pin (76), and is inserted with the plug pin (76) until abutment of the flange (74) in the a respective bore hole (78) of the a respective base plate (166), and there is welded to the respective base plate ---

l. **Claim 42**

i. "the core pump (24) rests upon the cross beam (54) by its water box (28) located" amended to:

- --- the core pump (24) rests upon the cross beam (54) by its water box (28) of the core pump (24) located ---

m. **Claim 42**

i. "in the area of the materials supply container" amended to:

— --- in the area of the a materials supply container ---

Allowable Subject Matter

16. Claims 1-12 and 39 are allowed.
17. Claim 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
18. Claims 15-27, 29-38, and 40-45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

19. Applicant's arguments with respect to claims 1-13 and 15-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is (571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
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